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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DETLEF TEICHNER and JOACHIM WIETZKE

Appeal 2011-011564
Application 11/283,547
Technology Center 3600

Before STEFAN STAICOVICI, PATRICK R. SCANLON, and HYUN J. JUNG, *Administrative Patent Judges*.

STAICOVICI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Detlef Teichner and Joachim Wietzke (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting under 35 U.S.C. § 102(b) claims 1, 2, 4-7, 13, 14, and 29 as anticipated by Lelievre (US 2003/0040272 A1, published Feb. 27, 2003) and under 35 U.S.C. § 103(a) claims 3, 8-12, and 15-21 as unpatentable over Lelievre and claims 22-28 as unpatentable over Lelievre and Vogt (US 6,628,930 B1, issued Sep. 30, 2003). We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

INVENTION

Appellants' invention relates to "broadcast reception in automotive systems." Spec. 1, para. [0002].

Claim 1 is illustrative of the claimed invention and reads as follows:

> 1. A vehicle entertainment and information processing system comprising:
>
> a tuning receiver that receives broadcast signals from a broadcast station, where the receiver is tunable to a broadcast station and is configurable to receive and reproduce a broadcast program;
>
> a navigation unit configured to receive geographical location coordinates;
>
> a memory that stores a reception quality parameter of the broadcast station obtained by measuring the broadcast signals along a route traveled by the vehicle, where the memory stores the reception quality parameter together with position data, output from the navigation unit, that corresponds to a position of the vehicle at a time of measurement of the broadcast signals; and
>
> a system controller that retrieves the reception quality parameter of the broadcast station when the vehicle travels along the route that corresponds to the position data associated with the reception quality parameter.

SUMMARY OF DECISION

We AFFIRM.

ANALYSIS

Appellants have not presented arguments for the patentability of claims 2, 4-7, 13, 14, and 29 apart from claim 1. *See* Br. 8-12. Therefore, in accordance with 37 C.F.R. § 41.37(c)(1)(vii) (2011), we select claim 1 as the representative claim to decide the appeal of the rejection of these claims, with claims 2, 4-7, 13, 14, and 29 standing or falling with claim 1.

First, Appellants argue that Lelievre fails to teach "a memory that stores a reception quality parameter of the broadcast station," as called for by claim 1. Br. 9-10. According to Appellants: (1) the "tuning codes" of Lelievre do not constitute "a measurement of reception quality parameter" (*see* Br. 9 (*citing* to Lelievre, para. [0033])); (2) Lelievre's sensitivity and selectivity information is not being stored in a memory (*see* Br. 9-10 (*citing* to Lelievre, para. [0035])); and (3) Lelievre fails to teach a local database "storing data about signal strength and then accessing it" (*see* Br. 10-11 (*citing* to Lelievre, para. [0038])).

We are not persuaded by Appellants' arguments because they are not commensurate in scope with the Examiner's rejection. Specifically, the Examiner did not find that the "tuning codes" of Lelievre constitute the claimed "reception quality parameter[s]." Rather, the Examiner correctly found that the field strength of the broadcast radio signal constitutes the claimed "reception quality parameter." *See* Ans. 9. Furthermore, we agree with the Examiner that the field strength signals of Lelievre's system (reception quality parameter) are stored in a database that is either local to

the vehicle radio or remote at a location-based service provider. *See* Ans. 9-10 (*citing* to Lelievre, paras. [0049]-[0053]) ("[T]he database includes . . . information in connection with a plurality of broadcast radio stations, such as, . . . carrier frequencies . . . and field strength boundaries." Lelievre, para. [0053]). Moreover, as the Examiner noted, Lelievre specifically teaches accessing the database to update the vehicle radio pre-sets when the pre-sets are no longer within a preferred range of the desired station, *i.e*., within an appropriate field strength of the broadcast station. *See* Ans. 4 (*citing* to Lelievre, para. [0018]); *see also* Lelievre, para. [0053].

Second, Appellants argue that Lelievre fails to teach that the reception quality parameter stored in the memory of claim 1 is "obtained by measuring the broadcast signals along a route . . . that corresponds to a position of the vehicle at a time of measurement of the broadcast signals." Br. 11-12 (*citing* to Lelievre, para. [0044]). According to Appellants, the database of Lelievre is built by either "gathering data from the government electronically" (*see* Br. 11) or by "accessing direct measurement of field strength in the regions surrounding the transmitter in order to identify the geographic boundaries" (see Br. 12).

Although we appreciate Appellants' position, nonetheless, we agree with the Examiner that because Lelievre teaches "*direct measurement* of field strength in regions surrounding the transmitter of a broadcasting station," Lelievre teaches, "measuring the broadcast signals along a route . . . that corresponds to a position of the vehicle at a time of measurement of the broadcast signal," as called for by claim 1. *See* Ans. 11 (emphasis added). What a reference teaches a person of ordinary skill is not limited to what a reference specifically "talks about" or what is specifically "mentioned" or

"written" in the reference. *Syntex (U.S.A.) LLC v. Apotex, Inc*. 407 F.3d 1371, 1380 (Fed. Cir. 2005). In this case, we agree with the Examiner that a person of ordinary skill in the art would have readily recognized that, when directly measuring the field strength in a region surrounding the transmitter of a broadcasting station, the measurements are performed while travelling in a vehicle and correspond to the route traveled by the vehicle. *See* Ans. 12. Appellants have not come forth with any persuasive evidence to show error in the Examiner's interpretation of Lelievre's teachings.

In conclusion, for the foregoing reasons, we sustain the rejection of claims 1, 2, 4-7, 13, 14, and 29 under 35 U.S.C. § 102(b) as anticipated by Lelievre.

With respect to the rejections under 35 U.S.C. § 103(a) of claims 3, 8-12, and 15-21 as unpatentable over Lelievre and of claims 22-28 as unpatentable over Lelievre and Vogt, Appellants rely on the arguments made *supra* in the anticipation rejection based upon Lelievre. Br. 13. Therefore, for the same reasons, we likewise sustain the rejections under 35 U.S.C. § 103(a) of claims 3, 8-12, and 15-21 as unpatentable over Lelievre and of claims 22-28 as unpatentable over Lelievre and Vogt.

SUMMARY

The Examiner's decision to reject claims 1-29 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Klh